

November 29, 2007

Mr. Bischoff called the regular meeting of the Union Township Planning Board/Board of Adjustment to order at 7:05 p.m. The Sunshine Statement was read.

Members Present: Mr. Mazza, Mr. Martin, Mr. Walchuk, Mr. Taibi, Mr. Scott,  
Mr. Bischoff

Members Absent: Mrs. Nargi, Mr. Kirkpatrick

Mr. Bischoff announced that Robert Badenhausem would be sworn as a new member of the Board. Atty. Sutphen performed the swearing.

Others Present: Atty. William Sutphen, Paul Ferriero, Rick Roseberry, Atty. Anthony Koester, Atty. Michael Gross, Robert Nargi, Atty. Jeffrey Lehrer, Peter Streletz

Mr. Bischoff said the Republic Services of NJ, LLC matter would be addressed first. Atty. Koester was present on behalf of Republic. Atty. Sutphen apprised the Board. He said applicant wants to install an underground fuel tank for the purpose of fueling their vehicles on site. Mr. Sutphen reviewed minutes of previous meetings and Resolutions of previous approvals. He said an underground fuel tank had been shown on plans. Applicant's attorney stated the tank was not a part of the application. Mr. Scott said he recalled asking that the tank be removed from the Final Site Plan. Atty. Sutphen advised the Board to tell applicant to submit an application to the Board. Atty. Koester concurred with Atty. Sutphen. Mr. Koester asked the Board to concur with Mr. Sutphen's conclusion. Mr. Koester asked if it would be an amendment to the previous approval or would the application be independent. Atty. Sutphen said it should be a new application for Preliminary Site Plan approval, followed by the Final Site Plan application.

**Adoption of Resolutions: Pilot Travel Centers: Block 11, Lot 24.03, 68 Route 173:**

There are three Resolutions altogether. Atty. Sutphen said the Board should take action first on the Appeal Resolutions and then the Preliminary Site Plan and Variance Resolution. Mr. Sutphen said the First Resolution pertained to the Notice of Violation regarding the conversion of the lounge area to a convenience store which resulted in an expansion of the non-conforming use.

Mr. Scott made a motion to memorialize the Resolution. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Walchuk, Mr. Martin, Mr. Taibi

The Second Resolution pertained to the Appeal of the application for a Certificate of Non-Conforming Use.

Mr. Scott made a motion to memorialize the Resolution, as amended. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Walchuk, Mr. Martin, Mr. Taibi

The Third Resolution pertained to the Preliminary Site Plan with Use, Expansion of a Non-Conforming Use and Bulk Variances. Mr. Roseberry offered some changes to the Resolution. Mr. Scott offered numerous changes. Mr. Taibi noted one change.

The following motions were made on the Third Resolution:

The first pertained to the action by the Board directing Atty. Sutphen to prepare a Resolution incorporating Board Professionals' comments into the site plan to the satisfaction of the Board.

Mr. Taibi made a motion to approve the accuracy of the wording as memorialized in the Resolution. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Taibi, Mr. Walchuk, Mr. Martin

Mr. Scott made the second motion. The motion was to approve the language of the proposed Resolution as set forth in Paragraph 8, as modified by changes he indicated and Mr. Taibi added, to deny the expansion of the diesel dispensing station and deny a use variance for the Subway fast-food restaurant. Mr. Taibi seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Taibi, Mr. Martin, Mr. Walchuk

The third motion pertained to granting the use variance for a convenience store, in its configuration as proposed. Mr. Taibi made a motion to approve the wording as identified in Paragraph 8 of the Resolution.

Mr. Scott seconded the motion.

Vote: Ayes: Mr. Taibi, Mr. Scott, Mr. Martin

Mr. Scott made a motion that the Resolution be amended to include the comments made tonight by Mr. Roseberry, Mr. Taibi and himself are agreed upon by the Board. Mr. Taibi seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Taibi, Mr. Martin, Mr. Walchuk

**P.S. Construction LLC: Block 22, Lot 27, 22 Race Street:** Atty. Jeffrey Lehrer was present on behalf of applicant. He had requested an adjournment of the matter until the December 20, 2007 meeting. The request was granted. Atty. Sutphen said no further notice would be required.

**Fallone Properties, LLC: Block 22, Lot 34, Perryville Road: Memorialization of Resolution #2007-002:** Atty. Sutphen mentioned some changes requested by applicant's Atty. Lloyd Tubman. Ms. Tubman objected to the off-tract roadway improvements and the submission of a new E.I.S. She wanted those items set forth as findings of fact. The Board did not object. Mr. Roseberry had two comments. He said applicant has agreed to comply with the request of Williams Transco Pipeline and the barricading of the MP Road. An agreement has been reached with the Road Department about the Road matter.

Mr. Mazza made a motion to memorialize the Resolution, as stated, with the additions of comments from Atty. Lloyd Tubman and Mr. Roseberry. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Mazza, Mr. Walchuk, Mr. Martin, Mr. Scott

**FDRA LLC: Block 12, Lot 12, 86 Route 173 West: Memorialization of Resolution**

**#2007-009:** Atty. Sutphen noted that Mr. Roseberry had some comments. Mr. Roseberry understood the pump house and water-storage tank were added after preliminary approval. All landscaping should be approved by Carl Hintz. Also, the application was a major site plan.

Mr. Mazza made the motion to memorialize the Resolution, with the addition of Mr. Roseberry's comments. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Mazza, Mr. Walchuk, Mr. Martin, Mr. Taibi, Mr. Scott, Mr. Bischoff

**Badenhausen: Block, 5.01, Lot 20, 46 Grandin Court: Memorialization of**

**Resolution #2007-008:** Mr. Scott made a motion to memorialize the Resolution. Mr. Taibi seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Taibi, Mr. Mazza, Mr. Martin, Mr. Walchuk, Mr. Bischoff

**Witte: Block 29, Lot 10 & Block 30, Lot 7, Perryville Road: Memorialization of**

**#2007-012:** Modification of the wording for the withdrawn caretakers dwelling was mentioned. Mayor Mazza asked about another potential driveway. Mr. Ferriero said he received a set of plans for a driveway. Mr. Bischoff said that would not be relevant to the Resolution.

Mr. Mazza made a motion to memorialize the Resolution, with the above modification. Mr. Walchuk seconded the motion.

Vote: Ayes: Mr. Mazza, Mr. Walchuk, Mr. Martin, Mr. Scott, Mr. Bischoff

Mr. Bischoff asked Mr. Roseberry to give a brief update on Grand Colonial tree plantings. Mr. Hintz was unavailable tonight. Messrs. Hintz and Nargi had discussed the locations of the plantings.

**Public Comments:** None

**Correspondence:** Mr. Bischoff thought the COAH Status and Consultant Report Review would be a Workshop Agenda item. Mr. Scott suggested the matter be placed on the February agenda after the Board reorganizes in January.

**Other Business:** Mr. Bischoff asked about the status of the Bulvanoski litigation. Mr. Scott said he had been assured there has been a settlement. The Bulvanoskis would have to return to the Board with a new application. Soil logs and perc tests have been performed.

Mr. Bischoff announced that Messrs. Brandt and Lukasik have resigned from the Board.

**Approval of Minutes:** Atty. Sutphen said Mr. Taibi's motion should include that the Pilot application was for a use variance. Mr. Scott made a motion to approve the minutes of the September 27, 2007 meeting, with that change. Mr. Mazza seconded the motion.

Vote: Ayes: Mr. Scott, Mr. Mazza, Mr. Martin, Mr. Walchuk, Mr. Taibi

Abstain: Mr. Bischoff

Mr. Mazza made a motion to approve the minutes of the October 25, 2007 meeting. Mr. Martin seconded the motion.

Vote: Ayes: Mr. Mazza, Mr. Martin, Mr. Walchuk, Mr. Taibi, Mr. Bischoff

Abstain: Mr. Scott

Mr. Scott said his attention had been focused on the Pilot Resolution; therefore, he had not had a chance to review the minutes.

**Other Business, cont'd.** Mr. Bischoff mentioned an article about slowing down development. He will provide information to the secretary and the item will be placed on the December 20, 2007 agenda. Mr. Taibi voiced a concern about the perennial Christmas lights at the Clinton Diner. He also asked about the Sign Ordinance. Mayor Mazza said the Second Reading was at the November 28, 2007 Committee meeting.

**Motion to Adjourn:** Mr. Taibi made a motion to adjourn. Mr. Walchuk seconded the motion. (8:50 p.m.)

Vote: All Ayes

Grace A. Kocher, Secretary